

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:14-cr-120

Also Civil Case No. 3:15-cv-268

- vs -

District Judge Timothy S. Black

Magistrate Judge Michael R. Merz

JOSHUA ANTHONY PETROSINO,

Defendant.

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**REPORT AND RECOMMENDATIONS ON MOTION FOR RELIEF  
FROM JUDGMENT**

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This case is before the Court on Defendant's Motion for Relief from Judgment (ECF No. 47).

The relevant procedural history is that the Magistrate Judge filed a Report and Recommendations recommending dismissal of Defendant's § 2255 Motion on November 16, 2015 (the "Report," ECF No. 45). The Report contained a Notice that any objections were required to be filed within seventeen days, or by December 4, 2015. *Id.* at PageID 212. The Clerk mailed the Report to Defendant November 17, 2015, the same day the Report was docketed. Defendant filed nothing and Judge Black therefore adopted the Report and entered judgment December 10, 2015.

Defendant's 60(b)(1) Motion does not recite when he received the Report. He claims, however, that on November 30, 2015, he submitted a request for a thirty-day extension of time to file objections to prison authorities for mailing to the Court (Motion, ECF No. 47, PageID 215). No such motion was ever received, much less granted. In the absence of the Court's granting an extension, Petrosino knew his objections were due December 4, 2015, yet he has still not tendered any objections to the Report.

Accordingly, it is respectfully recommended that the Motion for Relief from Judgment be DENIED.

January 12, 2016.

s/ *Michael R. Merz*  
United States Magistrate Judge

#### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).